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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,311	04/20/2004	Christopher Rathweg	249212026300	5676

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MORRISON & FOERSTER LLP
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PALO ALTO, CA 94304-1018

EXAMINER

RENNER, CRAIG A

ART UNIT	PAPER NUMBER
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2627

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/829,311

Applicant(s)

RATHWEG ET AL.

Examiner

Craig A. Renner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 6-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawing(s) were received on 30 March 2007. These drawing(s) are accepted.
2. The drawings, however, are again objected to as failing to comply with 37 CFR 1.84(p)(5) because they include one or more reference signs not mentioned in the description. Note, for instance, "D1" (shown in FIGS. 4A, 5A, 6A and 7A, for instance). Corrected drawing sheets in compliance with 37 CFR 1.121(d) and/or an amendment to the specification in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informality:

In line 4 of paragraph [0017] on page 4, "take-up reel 108" should be changed to --take-up reel 107-- in order to correspond with the change made to FIG. 1 in the drawing submitted 30 March 2007. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Ozawa (US 5,067,036).

Ozawa teaches a data drive comprising a drive base (includes 5 and 5', for instance); a receiver (3) for receiving a storage media device (2), the receiver being movably coupled to the drive base and translatable from an unloaded position (FIGS. 2 and 4, for instance) to a loaded position (FIGS. 3 and 5, for instance); a media flag (31) movably coupled to the receiver and translatable from a first position to a second position when the storage media device is inserted into the receiver (lines 9-17 in column 5, for instance), wherein the media flag comprises an insertion depth measure (as shown in FIG. 1, for instance); a media flag sensor (33) fixedly coupled to the drive

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base for detecting movement of the media flag (line 60 in column 4 thru line 8 in column 5, for instance); a receiver flag (9, for instance) fixedly coupled to the receiver, wherein the receiver flag comprises a distance measure (as shown in FIG. 3, for instance); and a receiver flag sensor (includes 26, for instance) fixedly coupled to the drive base for detecting movement of the receiver flag [as per claim 1]; wherein the data drive further comprises a read head for reading data from a tape contained in the storage media device (lines 12-13 in column 1, for instance, i.e., the abbreviation "VTR" stands for Video Tape Recorder and in order for it to be capable of "reproducing" it must have a read head) [as per claim 2]; wherein the receiver receives a storage media device comprising a tape cartridge (line 13 in column 1 and line 17 in column 7, for instance, i.e., the abbreviation "VTR" stands for Video Tape Recorder) [as per claim 3]; and wherein the data drive further comprises a drive controller coupled to the media flag sensor and the receiver flag sensor for receiving sensor signals from the media flag sensor and the receiver flag sensor (lines 42-44 in column 4, for instance) [as per claim 5]. With respect to the intended use limitations appearing in lines 7 and 11 of independent claim 1, for instance, note that a recitation with respect to the manner in which a claimed apparatus (i.e., "data drive", for instance) is intended to be employed (i.e., "for identifying a media type" and "for determining if the storage media device is in the loaded position", for instance) does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations, *Ex parte Masham*, 2 USPQ2d 1647 (PTO BPAI 1987).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ozawa (US 5,067,036).

Ozawa teaches the data drive as detailed in paragraph 5, supra. Ozawa, however, remains silent as to the data drive further comprising "a lock release member coupled to the receiver and positioned to release a reel lock of a compatible storage media device and to prevent full insertion of an incompatible storage media device."

Official notice is taken of the fact that it is notoriously old and well known in the art to have a data drive further comprise a lock release member coupled to a receiver and positioned to release a reel lock of a compatible storage media device and to prevent full insertion of an incompatible storage media device in the same field of endeavor for the purpose of enabling reel rotation only during storage media device use while preventing data drive damage from incompatible storage media devices. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have had the data drive of Ozawa further comprise a lock release member coupled to the receiver and positioned to release a reel lock of a compatible storage

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media device and to prevent full insertion of an incompatible storage media device. The rationale is as follows:

One of ordinary skill in the art would have been motivated to have had the data drive of Ozawa further comprise a lock release member coupled to the receiver and positioned to release a reel lock of a compatible storage media device and to prevent full insertion of an incompatible storage media device since such enables reel rotation only during storage media device use while preventing data drive damage from incompatible storage media devices.

Allowable Subject Matter

8. Claims 6-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed 30 March 2007 have been fully considered but they are not persuasive.

Applicant argues that "Ozawa at least fails to disclose or suggest 'a media flag movably coupled to the receiver and translatable from a first position to a second position when the storage media device is inserted into the receiver, wherein the media flag comprises an insertion depth measure for identifying a media type' and 'a receiver flag fixedly coupled to the receiver, wherein the receiver flag comprises a distance

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measure for determining if the storage media device is in the loaded position,' as recited in claim 1" (emphasis added by applicant). This argument, however, is not found to be persuasive as Ozawa does teach a media flag (31) movably coupled to a receiver (3) and translatable from a first position to a second position when a storage media device (2) is inserted into the receiver (lines 9-17 in column 5, for instance), wherein the media flag comprises an insertion depth measure (as shown in FIG. 1, for instance); and a receiver flag (9, for instance) fixedly coupled to the receiver, wherein the receiver flag comprises a distance measure (as shown in FIG. 3, for instance). With respect to the intended use limitations, note that a recitation with respect to the manner in which a claimed apparatus (i.e., "data drive", for instance) is intended to be employed (i.e., "for identifying a media type" and "for determining if the storage media device is in the loaded position", for instance) does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. See *Ex parte Masham*, supra.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig A. Renner whose telephone number is (571) 272-7580. The examiner can normally be reached on Tuesday-Friday 9:00 AM - 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (571) 272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Craig A. Renner
Primary Examiner
Art Unit 2627

CAR